

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

JUNE NEALY,

Plaintiff,

No. 13-11969

v.

District Judge Denise Page Hood  
Magistrate Judge R. Steven Whalen

VICTOR LOTYCZ, ET AL.,

Defendants.

/

**ORDER DENYING MOTION FOR COSTS [Doc. #43]**

Plaintiff's Motion for Costs and Attorney Fees [Doc. #43] is DENIED. In support of her motion, Plaintiff cites Fed.R.Civ.P. 37(a)(B), which does not exist. Moreover, Rule 37(a)(5) provides for a non-prevailing party in a *discovery* motion, as described in Rule 37(a)(3), to be assessed costs and fees. The motion on which the Plaintiff prevailed was a defense motion for a protective order, which does not fall within Rule 37. Finally, Plaintiff's motion does not reference the pre-filing conference seeking concurrence, as required by E.D. Mich. L.R. 7.1(a).

Defendants' request for costs under 28 U.S.C. § 1927, contained in their response to the present motion [Doc. #53], is likewise DENIED.

IT IS SO ORDERED.

s/R. Steven Whalen

R. STEVEN WHALEN

UNITED STATES MAGISTRATE JUDGE

Dated: April 22, 2015

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing document was sent to parties of record on April 22, 2015, electronically and/or by U.S. mail.

s/Carolyn M. Ciesla  
Case Manager